

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**MENARD, INC.**

**and**

**Case 18-CA-181821**

**LOCAL 153, OFFICE & PROFESSIONAL  
EMPLOYEES INTERNATIONAL UNION,  
AFL-CIO**

**ORDER**

The Respondent's Motion to Dismiss the Complaint is denied. The Respondent has not demonstrated that the amended complaint fails to state a claim upon which relief can be granted.

Further, to the extent that the Respondent is seeking summary judgment on the basis that (1) the allegations concerning the Respondent's arbitration agreement with its drivers have already been resolved in previous Board proceedings and (2) the alleged misclassification of the drivers as independent contractors does not constitute an unfair labor practice, we also deny the Motion. The Respondent has failed to establish that there are no genuine issues of fact and that it is entitled to a judgment as a matter of law.

This denial is without prejudice to the Respondent's right to renew these arguments to the administrative law judge and raise them before the Board on any exceptions that may be filed to the judge's decision, if appropriate.

Dated, Washington, D.C., April 19, 2017.

PHILIP A. MISCIMARRA,      ACTING CHAIRMAN

MARK GASTON PEARCE,              MEMBER

LAUREN McFERRAN,              MEMBER